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OFFICE OF PETITIONS

In re Application of :
Salanitro, et al. :
Application No. 10/828,754 :
Filed: April 21, 2004 :
Attorney Docket No. TH1006 05 :

DECISION GRANTING PETITION

This is a decision on the petition filed August 23, 2004, that is responsive to the "Notice of Incomplete Nonprovisional Application" (the "Notice") mailed August 2, 2004.

On April 21, 2004, the application was deposited.

On August 2, 2004, the Office of Initial Patent Examination mailed the Notice stating that drawings were not found with the application papers, but appeared to be required in order to obtain a filing date. The Notice allowed a non-extendable period for response of two months from its mailing date. The instant petition was filed on August 23, 2004. Petitioner maintains that the application was complete on filing and entitled to a filing date because the application incorporated by reference the entire disclosure of a prior application.

In this case, however, it has been determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). A review of the record reveals that Claims 21, 29, and 36 are method claims. Therefore, the present application is deemed to be an application that does not require drawings for an understanding of the invention. Accordingly, the application, as filed, was entitled to the filing date of April 21, 2004.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of April 21, 2004. Prior to the first action on the merits, petitioner should file a preliminary amendment requesting entry of the omitted drawings.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0010

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions